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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
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Middle PA (Harrisburg) Clerk of District Court
(District)

Date 6/26/01

Peppers v. Johnson
(Caption)

C. of A. No. 00-2167

Philip L. Johnson
(Appellant)

Civil 00-00128
(D.C. No.)

RECEIVED

JUN 29 2001

MARY E. D'ANDREA, CLERK

Enclosures:

6/26/01 Certified copy of C. of A. Order by the Court/Clerk
(Date)

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* Supplemental Record (First) (Second) (Third)

* Exhibits

* State Court Record

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May 10, 2001

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UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 00-2167

RONALD PEPPERS

VS.

PHILIP L. JOHNSON, ET AL.

(M.D. PA. CIV. NO. 00-CV-00128)

FILED
HARRISBURG, PA

JUN 29 2001

MARY E. D'ANDREA CLERK
Per [Signature]
Deputy Clerk

Present: SCIRICA, ROTH and MCKEE, CIRCUIT JUDGES

Submitted is appellant's notice of appeal, which may be construed as a request for a certificate of appealability under 28 U.S.C. § 2253(c)(1),

in the above-captioned case.

Respectfully,

Clerk

MMW/CAD/jam

ORDER

The foregoing application for a certificate of appealability is denied. Peppers' § 2254 petition was untimely filed. See § 2254(d); Burns v. Morton, 134 F.3d 109, 111 (3d Cir. 1998). Peppers' third post-conviction petition could not have tolled the period of limitations, as the § 2254 limitations period had already expired at the time the third post-conviction petition was filed. See Cromwell v. Keane, 33 F. Supp.2d 282, 285-86 (S.D.N.Y. 1999) (collateral petition cannot revive limitations period that has already expired).

A True Copy:

[Signature]

Marcia M. Waldron,
Clerk

By the Court,

[Signature]
Circuit Judge

Dated: JUN 26 2001

LD/cc: RP
FTC